

## GUIDELINES FOR LAKE OR STREAMBED ALTERATION NOTIFICATION VIA TIMBER HARVESTING PLANS

Fish and Game Code (FGC) Section 1602<sup>1</sup> requires an entity (Applicant) to notify the Department of Fish and Game (Department) and, if necessary, to obtain a Lake or Streambed Alteration Agreement (Agreement) before commencing specified activities. FGC Section 1611 provides that an Applicant who submits a Timber Harvesting Plan (THP) satisfies the notification requirement in FGC Section 1602 if the THP includes the information specified in FGC Section 1611. It further provides the Department is not required to determine whether the notification is complete or otherwise process the notification until the THP has been received by the Department and the applicable notification fee set forth in the Department's fee schedule (as listed in Section 699.5 of Title 14 of the California Code of Regulations) has been paid.

The Department has developed these guidelines to facilitate processing of Lake or Streambed Alteration Notifications pursuant to FGC Section 1611. The Guidelines provide coordination with various provisions in the Forest Practices Act (FPA), the California Forest Practices Rules (FPRs), the California Environmental Quality Act (CEQA) and the CEQA Guidelines that govern the California Department of Forestry and Fire Protection's (CDF's) review and approval of timber operations. These guidelines apply to THPs, Non-industrial Timber Management Plans, Program THPs and Modified THPs (collectively "Plan") as described in the FPA and the FPRs. By following these guidelines, the Applicant will obtain an Agreement in a timely manner, and the Agreement will be consistent with the Plan approved by CDF.

### Step 1: Submittal of Fees and Notification Information in the Plan

To indicate the Applicant is notifying the Department pursuant to FGC Section 1611, the Applicant must state this in Item 26(e) of the Plan and concurrently remit the applicable fee to the Department's Regional office. **Note: The Department is not required to, and will not process the notification prior to receiving the notification fee.** In order to allow processing of this notification via 1611 to run concurrently with the Plan review process, the Department should receive fee payment on or before the date of Plan acceptance by CDF.

The Department has developed an information list to assist Registered Professional Foresters (RPFs) in providing the information needed by DFG to process FGC Section 1611 notifications (see attachment: "Notification Information List Pursuant to Fish and Game Code Section 1611"). Use of this list will aid the RPF in assuring the information needed for processing the notification

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<sup>1</sup>All section references are to the Fish and Game Code as amended effective 01-01-04 unless otherwise specified.

is included. The standard forms normally used for notification per FGC Section 1602 (FG 2023 and FG 2024) may be used for notification under 1611, however, the RPF should ensure all of the information contained in the 1611 Notification Information List is included. **Note: In order to facilitate processing of Streambed Alteration Notifications via FGC Section 1611, the Department recommends all information be included in THP Item 26(d) in Sections II or III, as appropriate.**

#### Step 2: Confirmation and Initial Review

After the Applicant submits a Plan that is intended as notification pursuant to FGC Section 1611, the Department will send first review comments to CDF. These comments may include: 1) whether or not the Department has received notification pursuant to FGC Section 1611, or request clarification of the submitter's intent to use the Plan as FGC Section 1611 notification; 2) what additional information would be needed for the notification to be considered complete; and 3) whether or not the Department has received the notification fee.

If CDF does not accept the Plan for filing, the notification via Section 1611 is considered null and void. Additionally, if the Department has not received the notification fee, the Department will not determine whether the notification is complete or otherwise process the notification.

#### Step 3: The Department Determines Completeness of Notification

Following CDF's acceptance of the Plan for filing and the payment of the notification fee to the appropriate Department office, the Department will determine within 30 days (per Section 1602(a)(2)) if the notification is complete and notify the Applicant in writing. If the notification is incomplete due to any missing information or discrepancy in information, the Department will describe the missing information or required clarification. Upon subsequent submittal of additional information the Department will again determine within 30 days (per Section 1602(a)(2)) if the notification is complete and so notify the Applicant in writing.

#### Step 4: The Draft Agreement

Per FGC Section 1603(a), within 60 days of the Department's determination of completeness, the Department will provide a draft Agreement to the Applicant. Provided the Department receives the applicable fees on or before the day CDF accepts the Plan for filing, the Department will make a concerted effort to provide the Applicant the draft Agreement within the Plan's 30-day public comment period. In cases where the Plan's public comment period is extended beyond the 60-day timeframe specified in FGC Section 1603(a), the Department may request the Applicant agree to extend the timeline for providing a draft Agreement to the end of the Plan's public comment period in order to help

ensure the terms and conditions of the Agreement are consistent with the Plan as it is modified during the Plan review process.

If the Plan's public comment period is extended but the Applicant does not agree to extend the timeframe specified in FGC Section 1603(a), then the Department will be compelled to provide a draft Agreement before the public comment period has ended. This situation may lead to inconsistency between the Agreement and the Plan (as approved by CDF). This inconsistency may force the Applicant to either amend the Plan or request revisions to the draft Agreement. Either event may delay the start of work authorized by the Plan and Agreement.

The Department will evaluate the work proposed in the notification and will usually conduct an on-site inspection with the Applicant (or designee) in order to develop a draft Agreement based on site-specific conditions. The Department will attempt to do this concurrently with the pre-harvest inspection, however, a separate field inspection may be required.

Upon receipt of the draft Agreement, the Applicant will have 30 calendar days from the receipt date either to sign and return the draft Agreement to the Department, or notify the Department the Applicant disagrees with some or all of the terms and conditions of the draft Agreement and request a meeting to resolve the disagreement (per FGC Section 1603(a)). The Applicant may request the Department to extend this 30-day timeline.

#### Step 5: Final Agreement

After the Applicant returns the signed draft Agreement to the Department, the Department is required to evaluate the Agreement in compliance with CEQA. After CDF approves the Plan and files a Notice of Determination with the Office of Planning and Research's State Clearinghouse, the Department will execute the Final Agreement, file a Notice of Determination and return the final Agreement to the Operator. Although the FGC provides that the Department will execute the Agreement within 180 days, in most cases the Department will execute and return the Agreement soon after Plan approval.